

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the name of proceeding of "CERTA PRODUCTS LTD. vs ARTEMIDE S.P.A." and
the proceeding number "Opposition No. 91205223.

85444984

ANSWERS

Defendant Certa Products Ltd., a limited liability company of Canada, with a principal place of business correspondence at 581 Bole Court, Coquitlam, B.C., Canada, hereby deny that the registration of the mark ARTEMIS of Application Serial No. 85/444,984, will damage the reputation of Opposer Artemide S.P.A., a joint stock company of Italy, with its principal business address at Corso Monforte 19, Milano, 20122, Italy.

As grounds for the denial against said opposition, Defender, by its director Samuel Foo, denies as follows on knowledge as to Certa Products Ltd., and otherwise on information and belief:

1. With regards to paragraph (1) of the notice of opposition , the opposer has failed to show that Artemide and its related company Artemide Inc., have been selling energy efficient ENERGY STAR approved light bulbs and light fixtures.

Defendant Certa Products Ltd., has every intention to have all its LED light bulbs and light fixtures manufactured to qualify as ENERGY STAR products.

2. With regards to paragraph (1) of the notice of opposition , Defendant Certa Products Ltd., has no intention to expand its products or services to lighting design services, a business area which the opposer conducts its business in.
3. With regards Paragraph (3), oppose does not indicate that Artemide and its related company, Artemide Inc., are marketing energy efficient ENERGY STAR approved light bulbs and energy efficient ENERGY STAR approved light fixtures.



whereas defendant will be marketing energy efficient ENERGY STAR approved LED light bulbs and light fixtures once the products are approved by ENERGY STAR.

4. Once approved, Defendant's products will only be featured in catalogs and websites of ENERGY STAR Partners, the Defendant's products will not be featured at trade shows and in trade magazines other than those of ENERGY STAR Partners.
5. An internet search on the website of the largest US retailer of home improvement and construction product and services, HOME DEPOT, does not yield any mention of ARTEMIDE products. A copy of the search on the website is attached as **Exhibit A**. Another search of the website of the 2nd largest US retailer of home improvement, LOWE'S , did not yield any mention of ARTEMIDE products. A copy of the search on the website is attached as **Exhibit B**.
6. With regards to paragraph (6) of the opposition, and exhibits mentioned in said paragraph, nothing in the federal registrations listed indicates any of the goods are energy efficient and services listed are of energy efficient in nature. Goods listed in paragraph (6) include "electric lighting fixtures, lamps, electric light bulbs" are general in nature and cannot be used as a blanket assertion to include new technology lighting fixtures, lamps and electric light bulbs that have been developed and marketed, after the registrations dates of August 22, 2005 for registration no. 1,334,169 and March 24, 2010 for registration no. 2,349,855.
7. With regards to paragraph (9) of the opposition, the term lighting products used is very general. Lighting products include and not limited to, power cords, lamp switches, lamps, decorative fixtures, energy efficient fixtures, decorative light bulbs and energy efficient light bulbs. The mark ARTEMIS & Design once registered, will be trademark ARTEMIS for energy efficient ENERGY STAR LED

light bulbs, energy efficient ENERGY STAR LED light tubes and energy efficient ENERGY STAR light fixtures. The trademark ARTEMIS will be distinctive from any lighting products that are not energy efficient. All ENERGY STAR approved products will have the official ENERGY STAR logo next to the trademark.

8. With regards to paragraph (10) of the opposition, the word mark component ARTEMISA registered with registration number, 3455747 is pronounced and sounds similar to the trademark ARTEMIDE. A copy is attached as **Exhibit C**. The basis that the word mark component ARTEMISA was registered, even though it is pronounced and sounds similar to the trademark ARTEMIDE, must be the same basis for the opposer to be denied the opposition to the word mark component ARTEMIS be registered.
9. With regards to paragraph (11) of the opposition, **Exhibit D**, a copy is attached, shows that there is no visual similarity between the mark ARTEMIS and any of the opposer's trademark ARTEMIDE. In fact it can easily identified from **Exhibit D**, that the mark ARTEMISA, registration number, 3455747, is visually similar to all of the opposer's trademark. Yet the mark ARTEMISA was successfully registered.
10. With regards to paragraph (12) of the opposition, the opposer failed to elaborate instead stated in a vague term "has the same meaning as ".
11. With regards to paragraph (13) of the opposition, a search on the internet for the phrase "Artemide, goddess" did not yield any reference to Artemide S.P.A and its related company Artemide Inc. None of the opposer's websites and brochures available online, mentioned any reference to the goddess Artemide in Italian. The opposer has failed to show that it has used the meaning of goddess Artemide (in Italian) to promote its corporate image.

12. With regards to the paragraph (14) of the opposition, the opposer failed to produce any evidence that the opposer have used the reference of the goddess Artemide (in Italian) in the promotion of its products and corporate image.
13. With regards to paragraph (15), the defendant proposes to sell under its mark, LED light bulbs. All the defendant products will be marketed as ENERGY STAR products once they are being approved by ENERGY STAR. The Good and Services listed in the Trademark Application are described as "IC 011. US 013 021 023 031 034. G & S: (Based on Intent to Use) Electric light bulbs; Lamp bulbs; Lamp whose light can be turned in all directions; LED light assemblies for street lights, signs, commercial lighting, automobiles, buildings, and other architectural uses; LED light bulbs; LED lighting fixtures for indoor and outdoor lighting applications; Lighting fixtures for use in parking decks and garages; Lighting fixtures for use in parking lots and walkways; Lighting tubes; Luminaires, using light emitting diodes (LEDs) as a light source, for street or roadway lighting; Solar light fixtures, namely, indoor and outdoor solar powered lighting units and fixtures; Solar-powered all-weather lights; Wall lights(Based on 44(d) Priority Application) Electric light bulbs; Lamp bulbs; Lamp whose light can be turned in all directions; LED light assemblies for street lights, signs, commercial lighting, automobiles, buildings, and other architectural uses; LED light bulbs; LED lighting fixtures for indoor and outdoor lighting applications; Lighting fixtures for use in parking decks and garages; Lighting fixtures for use in parking lots and walkways; Lighting tubes; Luminaires, using light emitting diodes (LEDs) as a light source, for street or roadway lighting; Solar light fixtures, namely, indoor and outdoor solar powered lighting units and fixtures; Solar-powered all-weather lights; Wall lights " The category lighting products is very general and covers such diverse applications from lighting accessories for submersible vehicles to

lighting accessories for airplanes. The opposer cannot assert that its products which are mainly decorative lamps are similar to energy efficient LED light bulbs which the defendant will be marketing.

14. With regards to paragraph (16), once approved by ENERGY STAR, the defendant products will be only be marketed via some of the ENERGY STAR Partners. A search of the ENERGY STAR Partner List, as showed in **Exhibit E**, of the name ARTEMIDE, did not yield any results. The opposer failed to show evidence that the channels of trade in which the defendant plans to market its products are identical or substantially identical to those in which the opposer sells its products.
15. With regards to paragraph (17) of the opposition, the opposer failed to show that Artemide S.P.A. and its related company Artemide Inc., sells Artemide brand of light bulbs or light fixtures. The defendant plans to sell the Artemis brand of energy efficient LED light bulbs and energy efficient light fixtures. Consumers looking to buy ENERGY STAR approved LED light bulbs and light fixtures are unlikely to be shopping at any of the opposer's retail stores as the opposer failed to show in its brochures or on its websites that they market ENERGY STAR approved products. Instead the eco-conscious consumers will likely be shopping in many of the ENERGY STAR Partners' outlets that exist all over U.S.A.
16. With regards to paragraph (18), **Exhibit F**, a copy of which is attached, shows two marks registered successfully and both listed lighting products in the respective Goods and Services section. This shows that the industry or the public or both, are exposed to both marks and that has been no records of any opposition by either owners of the marks on the grounds that the marks caused confusion to the industry or the public or both. On the same ground, the opposition should be denied

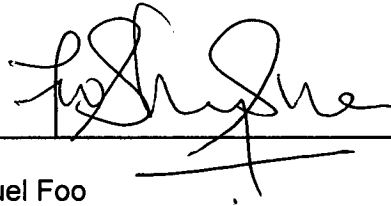
17. With regards to paragraph (19), again **Exhibit F**, a copy of which is attached, shows two marks registered successfully and both listed lighting products in the respective Goods and Services section. There has been no records of any opposition by either owners of the marks on the grounds that the industry or the public or both, have mistaken that both marks are the same. On this ground, the opposition should be denied.
18. With regards to paragraph (20), again **Exhibit F**, a copy of which is attached, shows two marks registered successfully and both listed lighting products in the respective Goods and Services section. There has been no records of any opposition by either owners of the marks on the grounds that the industry or the public or both, have mistaken that products sold under one mark are associated, or endorsed by owner of the other mark. On this ground, the opposition should be denied.
19. With regards to paragraph (21), again **Exhibit F**, a copy of which is attached, shows two marks registered successfully and both listed lighting products in the respective Goods and Services section. There has been no records of any opposition by either owners of the marks on the grounds that the industry or the public or both, have mistaken that owner of one mark, is one of the other owner's partners or affiliates or related companies or subsidiaries. On this ground, the opposition should be denied.
20. With regards to paragraph (24), the defendant intends to trade on the success of Artemis brand getting approval from ENERGY STAR and marketed as certified energy efficient products which will be available via ENERGY STAR Partners, of which the oppose is not. On this ground, the opposition should be denied.
21. With regards to paragraph (25), the opposer failed to show evidence that it has a reputation in the industry where ENERGY STAR Partners participate in. There is

indeed no evidence anywhere indicating that the oppose are actively participating in energy efficient lighting areas. On this ground, the opposition should be denied. In addition, **Exhibit F** indicates the presence of two marks owned by different owners and operation in the lighting products area, indicating both marks are co-existing in the industry and it is unlikely one party has been damaged by the presence of the other mark.

Respectfully submitted,

CERTA PRODUCTS LTD.

By:

A handwritten signature in black ink, appearing to read 'S. Foo', is written over a horizontal line. The signature is stylized with a large 'S' and a distinct 'F'.

Samuel Foo

Officer of defendant identified by title

Exhibit A

Home Depot website –

http://www.homedepot.com/webapp/catalog/servlet/Search?storeId=10051&langId=-1&catalogId=10053&keyword=Artemide&Ns=None&Ntp=1&Ntpc=1&selectedCatgry=S

EARCH+ALL



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SHOP BY DEPARTMENT

SEARCH ALL

GO

CART

MY LIST

[Home](#) > [Text Search](#) > [Artemide](#)

Search Results

No results for "Artemide".

SEARCH SUGGESTIONS:

[Double-check your spelling](#)

[Try another search term](#)

[Try the brand name, SKU or model number](#)

QUESTIONS? WE CAN HELP.

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1-800-430-3376

Major Appliances: 1-800-455-3869

[Online Shopping FAQs](#)


SHOP THESE POPULAR ITEMS

Exhibit B

Lowe's website

http://www.lowes.com/Search=artemide?storeId=10151&N=0&langId=-
1&catalogId=10051&rpp=24

[Sign In](#) [Sign Up](#) [Your Account](#) [Find a Store](#) [Cart \\$0.00](#)

 **NEVER STOP IMPROVING** SHOP. CLICK. PICK UP. 20 MINUTES GUARANTEED

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Home :: Search "artemide" (0) [Print](#)

Departments

- Appliances
- Bathroom
- Books & Magazines
- Building Supplies
- Cleaning & Organization
- Electrical
- Flooring
- Garden Center
- Hardware

We're sorry, we couldn't find any matches for "artemide"

Did you mean "artemisa"?

Think we should have it?

Not all products carried in Lowe's stores are carried on [Lowe's.com](#). Contact your local Lowe's to find out whether we carry the product you need.

[Find a Store](#)

Lowe's has more than 50,000 items in stock, but more than 10 times that are available through our Special Order Sales (SOS) program. Lowe's can Special Order almost any product made by our affiliated vendors. Please see [Special Order Basics](#) for more information.

Lastly, some products, such as air conditioners and snow blowers, may only be available seasonally.

Exhibit C

Trademark Electronic Search System (TESS)

<http://tess2.uspto.gov/bin/showfield?f=doc&state=4009:4lomku.2.1>



Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Thu Jun 21 04:36:18 EDT 2012

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[TARR Status](#) [ASSIGN Status](#) [TOR](#) [TAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

ARTEMISA

Word Mark	ARTEMISA
Goods and Services	IC 020. US 002 013 022 025 032 050. G & S: Bathroom furniture, namely, bathroom vanities, countertops, vanity tops, cabinets, shelves.
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78928193
Filing Date	July 12, 2006
Current Basis	1A
Original Filing Basis	1B
Published for Opposition	February 27, 2007
Registration Number	3455747

Exhibit D

Trademark Electronic Search System (TESS)

<http://tess2.uspto.gov/bin/showfield?f=doc&state=4009:4lomku.2.1>


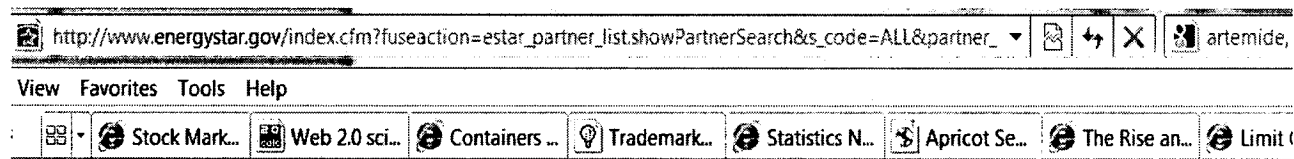





Mark & Design	Reg. No
ARTEMIDE	1334169
Artemide ARCHITECTURAL	2349855
Artemide	3731640
	85444984 (serial no.)
ARTEMISA	3455747

Exhibit E

Energy Star Partner List search

http://www.energystar.gov/index.cfm?fuseaction=estar_partner_list.showPartnerSearch&
s_code=ALL&



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PRODUCTS

HOME IMPROVEMENT

NEW HOMES

BUILDINGS & PLANTS

PARTNER RESOURCES

Partner Resources

Manufacturers

Retailers

New Home Industry

Utilities/EEPS

Service & Product
Providers

Buildings & Plants

Small Businesses

Congregations

For Contractors

For Federal Agencies

Home > Partner Resources > ENERGY STAR Partner List

ENERGY STAR Partner List

Search for an ENERGY STAR Partner by name, location, and/or partner type.

Company Name (optional)
Artemide

Partner Type

☒ All Partner Types

☐ Businesses, Schools, Congregations, and Governments committed to improving their energy efficiency

[More Search options]






☐ Cable, Satellite, and Telecom Service Providers

☐ Lighting and Electrical Distributors

☐ Energy Service & Product Providers [More Search options]

☐ Home Builders



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U.S. ENVIRONMENTAL PROTECTION AGENCY

SEARCH 

PRODUCTS

HOME IMPROVEMENT

NEW HOMES

BUILDINGS & PLANTS

PARTNER RESOURCES

Partner Resources

Manufacturers

Retailers

New Home Industry

Utilities/EEPS

Service & Product
Providers

Buildings & Plants

Small Businesses

Congregations

Home > Partner Resources > ENERGY STAR Partner List > Results

ENERGY STAR Partner List Results

Look for Partners in a different Country and State:

United States

All States

New Search

Refine Search

All Cities

Go

No matching results were found.

Exhibit F

Trademark Electronic Search System (TESS)

<http://tess2.uspto.gov/bin/showfield?f=doc&state=4009:4lomku.2.1>

Mark	Registration No.	Goods and Services
IRIS	2359051	ELECTRICAL LIGHTING FIXTURES
Iris	2175592	auto lighting products, namely, headlamps, brake lights, sidemarker lamps, blinkers, fog lamps, driving lamps, spot lamps, and reverse lights